

**SUPPLEMENTAL TESTIMONY OF THOMAS NOYES
ON BEHALF OF
THE DNREC DIVISION OF ENERGY & CLIMATE**

March 20, 2014

1 **I. INTRODUCTION**

2 **Q: What is the purpose of your supplemental testimony?**

3 A: The purpose of my testimony is to describe how the proposed settlement is responsive to
4 the concerns raised in DNREC's testimony and is therefore consistent with the public
5 interest.

6 **Q: Has DNREC submitted testimony in this docket previously?**

7 A: Yes. I submitted testimony along with DNREC's consultants, Max Chang and Paul
8 Peterson of Synapse Energy Economics.

9 **Q: Did DNREC support the proposed merger in its previous testimony?**

10 A: In my previous testimony, I stated that "DNREC has concluded that the merger as
11 proposed is not consistent with the public interest and recommends that the Commission
12 not approve the proposed merger unless the shortcomings identified in this testimony and
13 the testimony of other parties to this docket are addressed. In particular, the merger poses
14 serious questions of divergent interests when it comes to Exelon's generation assets and
15 Delaware's interests in promoting renewable energy and energy efficiency, and in
16 maintaining transparent, competitive energy markets in PJM."¹

17 **Q: Could you summarize the issues raised in DNREC's testimony?**

18 A: DNREC submitted testimony that focused on (1) the need for a robust market for
19 renewable energy, (2) keeping Exelon and Delmarva Power in PJM, (3) mitigating
20 Exelon's market power within PJM, (4) ensuring that demand response and energy
21 efficiency can be sold into PJM markets, and (5) using a portion of any Customer

¹ Noyes testimony, p. 3

Investment Fund (“CIF”) funding that might come to Delaware to promote energy efficiency.

1. RENEWABLE ENERGY PROCUREMENT

Q: What concerns did DNREC have regarding the RPS?

A: I described DNREC’s concerns regarding meeting Delmarva Power’s renewable portfolio standards (“RPS”) requirements in my testimony.² I described the concern that the supply of renewable energy could be insufficient to meet the demand created by the RPS requirements of states within the PJM region. I raised concerns about potential conflict between Exelon’s commercial interest in its large generation fleet and the market effects of expanding renewable energy capacity in PJM to meet the RPS needs of states in the PJM region. Max Chang testified that Exelon’s renewable resources, which make up a relatively small portion of the company’s overall generation assets, are largely located outside the PJM region.³

Q: How does the proposed settlement address DNREC’s concerns regarding the RPS?

A: Paragraph 84 includes a commitment to procure wind energy renewable energy credits (“RECs”) in three tranches of 40 MW each over the next ten years. Delmarva Power will issue RFPs for contracts to buy RECs for 10 to 15 years.

Q: How is this provision consistent with the public interest?

A: This provision will help new wind power projects get financed and built, provide a measure of long term price stability and protect ratepayers from the prospect of buying spot market RECs in a market where demand is greater than supply.

² Noyes testimony, pp. 4-14

³ Chang testimony, pp. 7-8

1 **2. EXELON MEMBERSHIP IN PJM**

2 **Q: What concerns did DNREC have regarding Exelon's membership in PJM?**

3 A: I described the reasons for requiring Exelon's continuing membership in PJM in my
4 direct testimony:

5 First, Delaware relies on a stable market for the generation and transmission of
6 electricity. Since power generation has been deregulated, a stable, well-
7 functioning market is essential to ensuring a fair price for ratepayers. If that
8 market is disrupted, it could affect the price and supply of electricity for
9 Delaware.

10 Second, as I describe elsewhere in this testimony, the behavioral remedies to
11 mitigate market power issues proposed by the Independent Market Monitor for
12 PJM ("IMM") are predicated on Exelon's continuing participation in PJM.

13 Third, 26 *Del. C.* § 351 (6) defines renewable energy sources: as "located within
14 or imported into the PJM region," which means that if the PJM market were
15 fragmented by the departure of Exelon, it could disrupt utilities' ability to meet
16 their RPS requirements. For example, if PJM were to become fragmented,
17 Delaware could lose access to low cost wind power resources located in the mid-
18 west and delivered to the western portions of PJM.

19 Fourth, as Witness Peterson testifies, the proposed merger raises concerns
20 regarding concentration of ownership, market power, and market manipulation,
21 and that remedies to address these issues will require that Exelon remain a
22 member of PJM.⁴

23 In his testimony, Paul Peterson recommended that Exelon should commit to remain in
24 PJM for ten years.⁵

25 **Q: How does the proposed settlement address DNREC's concerns regarding Exelon's**
26 **membership in PJM?**

27 A: Paragraph 95 includes a commitment to remain in PJM until January 1, 2025.

28 **Q: How is this provision consistent with the public interest?**

⁴ Noyes testimony, pp. 13-14

⁵ Peterson testimony, p. 7

1 A: This will promote stability in the PJM markets, enable other behavioral remedies to
2 market power issues, and ensure that DPL will be able to access renewable energy
3 resources located in or delivered to the PJM market over the next ten years.

4 **3. MARKET POWER WITHIN PJM**

5 **Q: What concerns did DNREC have regarding Exelon's market power within PJM?**

6 A: I expressed concerns about the possible use of market power in my testimony.⁶ Paul
7 Peterson raised concerns about demand response ("DR") and energy efficiency ("EE") in
8 PJM markets, interconnection studies for transmission projects and PJM governance.⁷
9 Mr. Peterson recommended third party review of transmission interconnection studies
10 and provisions to enable PHI and PHI affiliates to "act independently to adopt positions
11 and advance rule changes that will benefit PHI customers, including Delmarva
12 customers."⁸

13 **Q: How does the proposed settlement address DNREC's concerns regarding Exelon's**
14 **market power within PJM?**

15 A: Paragraph 95 in the Settlement includes several important provisions that provide
16 assurance in the area of market power mitigation. Paragraph 17 contains language
17 committing Exelon, PHI and Delmarva Power to support the inclusion of demand
18 response and energy efficiency in markets that serve Delaware. Paragraph 95 includes a
19 commitment to allow project developers to select an independent third-party to review
20 interconnection requests within PJM, a commitment to let the Independent Market
21 Monitor ("IMM") review demand resource bids, a commitment to use separate legal and

⁶ Noyes testimony, pp. 17-20

⁷ Peterson testimony, pp. 5-6

⁸ Peterson testimony, pp.7-8

1 government affairs staff and separate law firms for Exelon Generation and/or DPL for
2 matters before the Commission, and a \$350k donation to Consumer Advocates of PJM
3 State or CAPS.

4 **Q: How is this provision consistent with the public interest?**

5 A: The settlement language circumscribing Exelon's behavior within PJM and before the
6 PSC mitigates DNREC's concerns that renewable energy, EE and DR will be
7 disadvantaged in the PJM markets, which could result in customers paying more for
8 electricity due to of Exelon's use of its market power and influence within PJM.

9 **4. OPENING PJM MARKETS TO DEMAND RESPONSE AND ENERGY EFFICIENCY**

10 **Q: What concerns did DNREC have regarding the ability to sell energy efficiency and**
11 **demand response into PJM markets?**

12 A: As I noted in my testimony, the ability to sell EE and DR supports current and future
13 policies and programs authorized by statute.⁹ If the PJM energy and capacity markets
14 were to be closed to energy efficiency and demand response it would increase prices for
15 DPL customers.¹⁰ Paul Peterson recommended that Exelon "allow an independent third-
16 party review of all of its demand resource offers" within PJM.¹¹

17 **Q: How does the proposed settlement address DNREC's concerns regarding the ability**
18 **to sell demand response and energy efficiency into PJM markets?**

⁹ Noyes testimony, pp. 15-16

¹⁰ Noyes testimony, pp. 16-17

¹¹ Peterson testimony, p. 7

1 A: As noted above, Paragraph 17 contains language committing Exelon, PHI and Delmarva
2 Power to support the inclusion of DR and EE in markets that serve Delaware. Paragraph
3 95 includes a commitment to allow the IMM to monitor DR and EE bids.

4 **Q: How is this provision consistent with the public interest?**

5 A: Paragraph 17 explicitly requires Exelon to take the side of those advocating for more
6 open PJM markets that allow DR and EE to compete as resources within PJM, which
7 should result in lower capacity prices in PJM and support efforts to promote DR and EE
8 programs and policies in Delaware. Paragraph 95 ensures greater transparency in DR
9 markets within PJM to the benefit of energy consumers.

10 **5. FUNDING FOR ENERGY EFFICIENCY**

11 **Q: What concerns did DNREC have regarding funding for energy efficiency?**

12 A: I presented testimony that “it would be appropriate to use the [Customer Investment]
13 Fund to provide some direct benefit to ratepayers and to support energy efficiency
14 programs and other clean energy programs.”

15 **Q: How does the proposed settlement address DNREC’s concerns regarding funding
16 for energy efficiency?**

17 A: Paragraph 17 includes \$2 million for low income energy efficiency funding as
18 recommended by the Energy Efficiency Advisory Council. This funding is over and
19 above the Customer Investment Fund.

20 **Q: How is this provision consistent with the public interest?**

1 A: This will provide funds to help provide energy efficiency programs to low income
2 ratepayers who would not otherwise be able to afford the investments needed to make
3 their homes more efficient.

4 **6. CONCLUSION**

5 **Q: Based on the issues you have reviewed in this testimony, is the proposed settlement**
6 **consistent with the public interest?**

7 A: For the reasons I have described above, DNREC believes this settlement to be consistent
8 with the public interest and the recommends its approval by the Commission.

9 **Q: Does this conclude your written testimony?**

10 A: Yes.